

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHARLES G. REECE,  
Petitioner,

No. C 13-2515 SI (pr)

**ORDER**

v.

GARY SWARTHOUT, Warden,  
Respondent.

Charles G. Reece filed this *pro se* action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge a parole denial decision. The court found the petition to state a cognizable claim that Reece's right to be free from ex post facto laws was violated when the BPH denied him parole for five years pursuant to California Penal Code § 3041.5(b)(3), as amended by Marsy's Law/Proposition 9 in 2008. Docket # 9. On May 7, 2015, the court lifted the stay of this action and set a briefing schedule on the merits of the petition.


Thereafter, in *Nettles v. Grounds*, No. 12-16935 (9th Cir. May 28, 2015), the Ninth Circuit held that "relief is available to a prisoner under the federal habeas statute only if success on the claim would 'necessarily spell speedier release' from custody, which *Skinner*[v. *Switzer*, 562 U.S. 521, 533-34 (2011)] suggested would include termination of custody, acceleration of the future date of release from custody, or reduction of the level of custody." *Nettles*, slip op. at 18. Earlier Ninth Circuit cases that had "indicated that the writ of habeas corpus may extend to claims that, if successful, would merely be likely to or have the potential to lead to a speedier release" were "superceded by the Supreme Court's rulings." *Id.* at 19. There is at least the strong

1 possibility that *Nettles* requires the dismissal of this action.

2 Accordingly, the court vacates the briefing schedule set out in the May 7, 2015 order and  
3 now requires the parties to submit simultaneous briefs discussing only whether *Nettles* requires  
4 dismissal of this action. No later than **July 13, 2015**, respondent and petitioner must each submit  
5 a brief **no longer than eight pages** discussing whether *Nettles* requires the dismissal of this  
6 action. The clerk will mail to petitioner a copy of the *Nettles v. Grounds* and *Skinner v. Switzer*  
7 opinions.

8 IT IS SO ORDERED.

9 DATED: June 18, 2015

  
\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge